IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.3135 of 2006

DATE OF ORDER: 9.3.2007

Katar Singh

...Petitioner(s)

Versus

Rajinder and Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Santosh Kumar, Advocate.

Mr. S.K.Sharma, Advocate.

Mr. Jitender Chauhan, Addl.A.G, Haryana.

M.M. AGGARWAL,J

This is petition against judgment dated 15.5.2006 passed by Additional District Judge, Jhajjar whereby appeal filed by the defendant, now petitioner against an order dated 27.3.2006 passed by Additional Civil Judge(Sr.Divn.), Jhajjar was dismissed.

In this case, Rajinder and Satbir Singh had filed suit for permanent injunction as against the present petitioner for restraining Katar Singh, defendant No.1 from constructing brick kiln, which will be just at distance of one killa i.e 250 feet from the house of the plaintiff in village Bahu, Tehsil & District Judge and that application U/o 39 Rule 1 & 2 CPC was allowed and defendant No.1 was restrained from running any brick kiln on the disputed site till the final decision of the suit. An appeal was filed by the present petitioner against that order, which was dismissed.

On behalf of the petitioner, it is argued that the Haryana Pollution Control Board had already granted No Objection Certificate and that the structure of the brick kiln was to be within the guidelines and instructions of the Government copy Annexure P-2 and the Civil Courts could not interfere in the matter and grant stay. Counsel for the petitioner

had relied on a judgment of this Court reported in Anil Garg v. Dhingra Construction Company, 2000(3) RCR (Civil) 752.

During the pendency of the petition, this Court had directed Haryana Pollution Control Board to depute a team of its experts, who shall visit the site and give its report as to whether or not the brick kiln proposed to be installed by the petitioner shall cause pollution to the habitants of the village.

Then a report came to the effect that if the brick kiln in question was allowed to operate at the existing site with the existing pollution control devices, it will definitely effect the environment of the nearby village/Dhani.

There are concurrent orders of two courts below. In view of the inspection report received, I do not find any good ground to interfere in the matter.

This petition is dismissed. Since it appears that respondents No.1 & 2 have already spent some amount in raising certain construction for the brick kiln, it will be proper that the trial Court holds expeditious trial and make efforts to dispose of the main case within a period of six months.

With this observation, petition stands disposed of.

March , 2007 (M.M. AGGARWAL)
manoj JUDGE